

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

Inquiry Concerning a Judge,
No. 00-319, Joseph P. Baker

Supreme Court No.: SC-002510

NOTICE OF OBJECTION TO HEARING DATE,
AND MOTION FOR CONTINUANCE

Judge Joseph P. Baker, by and through his undersigned counsel, objects to the hearing date set for March 14, 2001, and, alternatively, moves for a continuance of that hearing, and in support of this motion, would state as follows.

1. It is impossible to adequately prepare a defense in the time between now and March 14. On January 30, 2001, a Demand for Information under Rule 12 of the FJQCR was filed by us, and on January 31, 2001, Interrogatories were filed by us. To date, no response has been received to either of these discovery requests. We do not know the witnesses who will be called or what they will say, nor do we know what documents will be used. It has been impossible to schedule or take depositions or obtain production of documents without this information. We are certain the time required for the hearing would be substantially shortened by depositions and other discovery, especially requests for admissions.

2. The issues presented in this case are unprecedented. We have been unable to find any rule of practice, procedure, ethical guideline or anything resembling the procedure described in the Investigative Hearing that Judge Baker should have followed. It is necessary to take the depositions of Investigative Panel members Michael Nachwalter and Judge Miette Burnstein, and a representative of the Investigative Panel with the

greatest information about what they contend Judge Baker should have done and what he should not have done. Without such depositions, Judge Baker and we are unable to determine what charges he is facing and how to defend them.

3. Judge Baker and we have been unable to find an expert on judicial ethics and judicial conduct who has ever heard of a similar case anywhere in the United States. Until the contention interrogatories are answered and the depositions are taken, we are unable to present thecial conduct and ethics questions to an expert.

4. Although readily acknowledging they do so, judges in Florida are understandably reluctant to admit to studying and informing themselves about technical and scientific subjects involved in litigation in which they have or may preside, since they face charges from the Florida JQC for admitting so. This reluctance applies to appellate judges, who are subject to the same Code of Judicial Conduct, as well as trial judges. This makes necessary trying to locate judges out of state as witnesses, which is time consuming and expensive.

5. Judge Baker has a full docket of jury trials set for the three week trial period beginning March 6, 2001 with ten (10) still announcing that they are ready for trial after a number of settlements. One of these, *Carlson v. Adventist Hospitals*, CI 00-1153, is a two-week medical-malpractice/premises-liability case that was given a preferential setting and a time certain for March 6 because the plaintiff is 95 years old. This case will have to be rescheduled if the March 14 hearing date for Judge Baker holds, and it will have to be

rescheduled at an indefinite time in the future due to the problems of arranging for the appearance of expert medical witnesses.

6. In addition, Judge Baker's counsel are not able to be present and represent Judge Baker on March 14 because of the following prior commitment:

Hearing on Defendants' Motion for Summary Judgment before the Honorable Belvin Perry, Jr., Case No. CI97-8471, in the matter of *Rainey vs. Central Florida Investments, Inc., and David Siegel*.

Moreover, due to other cases and scheduled matters, there is insufficient time between now and March 14 to adequately prepare Judge Baker's defense.

7. We, and Judge Baker, have been trying to contact witnesses who will testify in his defense, many of whom are from out of Orange County and out of state, and the shortness of the time to the March 14 hearing date makes arranging for them to appear and testify impossible for them.

8. We, and Judge Baker, believe that the underlying issue in this case is the power of trial lawyers over trial judges and appellate lawyers over all appellate judges and justices in the State of Florida. This affects the independence and intellectual honesty of the entire judiciary of the state at trial and appellate levels. It has generated a large amount of news coverage in Orlando and throughout the state and in other states. Even national television networks NBC and Court TV have expressed an interest in covering the hearing. Such an important matter to the public and the bench and bar cannot be fully developed in twenty-one (21) days, especially where we do not yet fully know the position of the Investigative Panel and its attorneys, nor do we know the witnesses or evidence to be presented.

WHEREFORE, Judge Baker and we object to the hearing date of March 14, 2001, as premature, considering the state of discovery and the nature of the case, and we ask that it be rescheduled. Alternatively, we ask for a continuance of the hearing date from March 14, 2001.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail delivery to *Judge James Jorgenson*, Chairman of JQC Hearing Panel, The Historic Capitol, Room 102, Tallahassee, FL 32399-60000; *Thomas C. MacDonald, Jr., Esquire*, General Counsel to JQC, 100 N. Tampa Street, Suite 2100, Tampa, FL 33602; *Brooke S. Kennerly*, Executive Director, Florida JQC, 400 S. Monroe, Old Capitol, Room 102, Tallahassee, FL 32399; *John R. Beranek, Esquire*, Counsel to the JQC Hearing Panel, P.O. Box 391, Tallahassee, FL 32302-0391; and *Charles P. Pillans III, Esquire*, The Bedell Building, 101 East Adams Street, Jacksonville, FL 32202, this 23rd day of February, 2001.

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